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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,177	07/24/2003	Kuo-Pei Weng	PAT-1500	1544

7590 11/07/2006
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EXAMINER

DANIELSEN, NATHAN ANDREW

ART UNIT PAPER NUMBER

2627

DATE MAILED: 11/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/626,177	Applicant(s) WENG ET AL.	
	Examiner Nathan Danielsen	Art Unit 2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-3 are pending.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1 and 2 are rejected under 35 U.S.C. 102(e) as being anticipated by Kim et al (US Patent Application Publication 2003/0007449; hereinafter Kim).

Regarding claim 1, Kim discloses a method for determining whether a disk is positioned upside down inside an optical disk player, comprising:

- a. loading a disk into an optical disk player which has a focusing device (inherent to record on or reproduce from an optical disk);
- b. emitting a laser beam that travels via the focusing device to the loaded disk (§§s 34 and 35);
- c. moving the focusing device from a first position to a second position (§§s 34 and 35);
- d. while the focusing device is being moved from the first position to the second position, continuously recording the variation in the intensity of the laser beam that is reflected by the disk to produce a distribution curve of the intensity of the reflected laser beam (§§s 34 and 35); and
- e. determining whether the disk is upside down based on the obtained distribution curve (§§s 34 and 35).

Regarding claim 2, Kim discloses where step (e) further includes:

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comparing the obtained distribution curve with a prescribed reference reflection intensity distribution curve to determine whether the disk is upside down (§§ 34 and 35; where the prescribed distribution curve of Kim is the monitored *DC state*).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kim, in view of Watanabe et al (US Patent 6,493,304).

Regarding claim 3, Kim discloses everything claimed, as applied to claim 1. However, Kim fails to disclose the sub-method of detecting the presence of a disc by means of the rotation speed of the spindle motor.

In the same field of endeavor, Watanabe discloses where the method further includes, prior to step (b), the steps of:

- (i) rotating a spindle motor of the optical disk player based on a prescribed waveform (inherent for controlling the speed of rotation of the disk);
- (ii) measuring the rotation speed of the spindle motor (figure 12);
- (iii) determining that there is no disk in the optical disk player if the rotation speed of the spindle motor is greater than a preset speed of rotation within a prescribed period of time, otherwise performing step (c) (col. 27, lines 17-23 and 48-61).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have checked for the presence of a disc by measuring the rotational speed of a spindle motor, as taught by Watanabe, for the purpose of determining the presence of a disc in a short time (col. 27, lines 56-61).

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Response to Arguments

6. Applicant's arguments with respect to claims 1-3 have been considered but are moot in view of the new ground(s) of rejection.

Closing Remarks/Comments

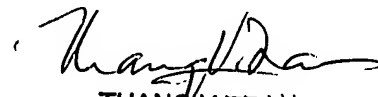
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan Danielsen whose telephone number is (571) 272-4248. The examiner can normally be reached on Monday-Friday, 8:30 AM - 4:30 PM Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wayne Young can be reached on (571) 272-7582. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Nathan Danielsen
11/01/2006

ND


THANG V. TRAN
PRIMARY EXAMINER